

REMARKS

Claims 1, 3-9 and 36-45, 47 and 48 are currently pending in the subject application and are presently under consideration. It is erroneously stated in the Office Action dated January 16, 2007 that claims 1, 3-9 and 36-42 are pending in the application. However, it is submitted that new claims 43-47 were added in the RCE submission filed on October 23, 2006. Accordingly, examination of these claims is hereby requested.

Claims 1, 38 and 47 have been amended while claim 46 is canceled. New claim 48 has been added. Support for this claim is found in the specification as filed at page 13 lines 12-16. A listing of claims is shown on pages 2-4 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1, 3-6, and 36-42 Under 35 U.S.C. §102(a)

Claims 1, 3-6, and 36-42 stand rejected under 35 U.S.C. §102(a) as being unpatentable over Raschke, *et al.* (U.S. 6,653,933). This rejection should be withdrawn for at least the following reasons. Raschke, *et al.* does not teach or suggest all limitations set forth in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) ***must teach or suggest all the claim limitations***. See MPEP §706.02(j). ***The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on the Applicant's disclosure.*** See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

The invention relates to a system for configuring, setting-up, programming and monitoring devices utilizing at least a power line. Each network device (*e.g.*, programmable logic controller, machine, and sensor) contains a power line interface to facilitate communication over a power line network and a configuring device can utilize the interface in order to configure

or program the controller. By utilizing power lines to inconspicuously “tunnel in” to electrically connected devices, diagnostic and prognostic data can be gathered, monitored and analyzed without burdening the device with such process and without interfering with the current operation of the device. To this end, independent claims 1 and 38 recite similar features namely: ***the configuration device further comprises a diagnostic tool for inconspicuously conducting data monitoring and gathering procedures without knowledge of the controller and also without interfering with operating processes within the controller.*** Such novel aspects are not taught or suggested by Raschke, *et al.*

Raschke, *et al.* relates to an autonomous local area distributed network providing a peer-to-peer network that connects nodes and devices using low cost and low bandwidth communication techniques and warranting only an occasional connection to a server (See Raschke, *et al.* Abstract and col.2 lines 9-13). Accordingly, nodes on a network are coupled together through an internal communication facility and through a gateway to an external communications network. Although Raschke, *et al.* teaches a non-volatile RAM (object data store 236) within a node for maintaining error logs, it teaches retrieving the logs later for diagnosing the system (See Raschke, *et al.* col.6 lines 42-43 and col.7 lines 13-15). Hence, if the node is not functioning well, the data within the error logs cannot be retrieved until the node is repaired, since the error logs are stored within the node itself. In contrast, the subject claims recite a configuration device for inconspicuously conducting data monitoring and gathering procedures without interfering with an operating process. Such features enable detecting problems in a controller by a configuration device early on before the system fails and taking appropriate action (See applicants’ claim 47).

In view of the aforementioned, it is clear than an identical system as recited in the subject claims is not taught or suggested by Raschke, *et al.* Therefore, withdrawal of this rejection is respectfully requested.

II. Rejection of Claims 7-9 Under 35 U.S.C. §103(a)

Claims 7-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Raschke, *et al.* (U.S. 6,653,933). This rejection should be withdrawn for at least the following reasons. Claims 7-9 depend from independent claim 1 and as stated *supra*, Raschke, *et al.* does not teach

or suggest all aspects recited in independent claim 1. Hence, withdrawal of this rejection is requested with respect to claims 7, 8 and 9.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP323US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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